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February 9, 2024

Via ECF

The Hon. Robyn F. Tarnofsky
Daniel Patrick Moynihan United States Courthouse
United States Courthouse
500 Pearl Street,
New York, NY 10007

Plaintiff's application is GRANTED. Plaintiff's February 9, 2024 Letter and the documents attached thereto as Exhibits 2 and 3 (ECF Nos. 60, 61) shall remain under seal.

The Clerk of the Court is respectfully directed to terminate ECF 59.

DATED: February 12, 2024
New York, New York

SO ORDERED


ROBYN F. TARNOSKY
UNITED STATES MAGISTRATE JUDGE

Re: *Thales Avionics, Inc. v. L3 Technologies, Inc.*, No. 24-cv-112 (JGK) (RFT)

Dear Magistrate Judge Tarnofsky:

I write on behalf of Plaintiff Thales Avionics, Inc. ("Plaintiff" or "Thales Avionics") pursuant to Rule III.E of Your Honor's Individual Practices to respectfully request leave to file in redacted form Plaintiff's Letter, dated February 9, 2024 ("Plaintiff's Letter"), and Exhibits 2 and 3 to Plaintiff's Letter (together, the "Confidential Documents").

Exhibit 2 is a recent communication covered by the Confidentiality Agreement between Thales, S.A. and L3Harris Technologies, Inc. dated May 24, 2023, ECF No. 12-1.

Exhibit 3 is a document that Your Honor ordered to be "treated as highly confidential with disclosure limited to outside counsel's eyes only" once produced by Defendant. ECF No. 41 at 1, and as to which Your Honor granted Defendant's motion to file under seal, ECF No. 58.

"Established factors and values that can outweigh the presumption of public access include . . . business secrecy . . . and privacy interests." *Valassis Commc'ns, Inc. v. News Corp.*, No. 17-CV-7378 (PKC), 2020 WL 2190708, at *1 (S.D.N.Y. May 5, 2020). Courts have granted motions to seal commercially sensitive information, which, if disclosed, could cause competitive harm. *See, e.g., Rubik's Brand Ltd. v. Flambeau, Inc.*, No. 17-CV-6559 (PGG)

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(KHP), 2021 WL 1085338, at *1 (S.D.N.Y. Mar. 22, 2021) (granting motion to seal license agreements, invoices, and documents relating to marketing strategy); *Tropical Sails Corp. v. Yext, Inc.*, No. 14 CIV. 7582, 2016 WL 1451548, at *4 (S.D.N.Y. Apr. 12, 2016) (sealing exhibits that would cause defendant “competitive injury” if disclosed). *Cf. United States v. Amodeo*, 71 F.3d 1044, 1051 (2d Cir. 1995) (“Commercial competitors seeking an advantage over rivals need not be indulged in the name of monitoring the courts.”).

Plaintiff has no objection to filing the Confidential Documents publicly. However, because Exhibit 2 may contain competitively sensitive information covered by the parties’ non-disclosure agreement, and because Your Honor ordered Exhibit 3 to be produced for “outside counsel’s eyes only,” Plaintiff respectfully asks that the Court grant this Motion.

CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that Your Honor enter an Order allowing Plaintiff to file the Confidential Documents under seal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M M L' followed by a horizontal line.

Mark E. McDonald

cc: All Counsel of Record (via ECF)